

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BLUE SPIKE, LLC,
Plaintiff,

v.

TEXAS INSTRUMENTS, INC.
Defendants.

Civil Action No. 6:12-CV-499-LED

(LEAD CASE)

JURY TRIAL DEMANDED

BLUE SPIKE, LLC,
Plaintiff,

v.

AUDIBLE MAGIC CORPORATION,
ET AL.
Defendants.

Civil Action No. 6:12-CV-576-LED

(CONSOLIDATED WITH 6:12-CV-499)

JURY TRIAL DEMANDED

**DECLARATION OF JANNA K. FISCHER IN SUPPORT OF DEFENDANTS’
OPPOSITION TO BLUE SPIKE’S MOTION TO STRIKE EXPERT DECLARATIONS**

I, Janna K. Fischer, hereby declare:

1. I am an associate at Cooley LLP, attorneys of record for Defendant Facebook, Inc. I provide this declaration in support of defendants’ opposition to Blue Spike’s motion to strike the expert declarations of John Snell and Professor Matthew Turk. I declare that the following statements are true to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances. If called upon to testify, I could and would competently testify thereto.

2. On August 28, 2014, I notified counsel for Blue Spike that Professor Matthew Turk was available for deposition on September 19, 2014, in accordance with the parties' understanding that experts who submitted declarations in support of Defendants' arguments on indefiniteness would be provided for deposition between September 9-19, 2014. I understood Mr. Garteiser's response, which did not object to the proposed deposition date for Dr. Turk, as an indication that Blue Spike would proceed on that date if Dr. Turk ultimately submitted a declaration concerning indefiniteness..

3. Attached hereto as **Exhibit A** is a true and correct copy of the email proposing September 19 as a date and Blue Spike's response.

4. On September 11, 2014, I called Randall Garteiser to confirm the date of Dr. Turk's deposition and finalize logistics. Mr. Garteiser responded that Blue Spike could not take the deposition without an extension of its briefing deadlines and declined to either proceed with the September 19 date or to propose a different date.

5. Attached hereto as **Exhibit B** is a true and correct copy of Blue Spike's cover letter accompanying its deposition notices.

6. Attached hereto as **Exhibit C** is a true and correct copy of Blue Spike's August 15, 2014, notice of deposition of Professor Matthew Turk.

7. Attached hereto as **Exhibit D** is a true and correct copy of Blue Spike's August 15, 2014, notice of deposition of John Snell.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed in Broomfield, Colorado, on this 15th day of September, 2014.

s/ Janna K. Fischer
Janna K. Fischer